

AMENDED IN SENATE JUNE 22, 2016

AMENDED IN ASSEMBLY MAY 4, 2016

AMENDED IN ASSEMBLY APRIL 26, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2149

Introduced by Assembly Member Bonilla

February 17, 2016

An act to add Part 13.5 (commencing with Section 31001) to Division 2 of the Revenue and Taxation Code, relating to medical ~~marijuana~~ *cannabis*, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2149, as amended, Bonilla. State Board of Equalization: *counties*: state agencies: collection of cash payments: medical ~~marijuana~~-related *cannabis*-related businesses.

Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, ~~allows the use of marijuana for medical purposes~~. *exempts from specified criminal penalties the possession or cultivation of medical marijuana by patients and primary caregivers*. The Medical Marijuana Regulation and Safety Act provides for the licensure and regulation of commercial medical marijuana activity by various state entities, as specified. ~~The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.~~

This bill would authorize the State Board of Equalization *or a county* to collect cash payments from medical—~~marijuana-related~~ *cannabis-related* businesses for ~~other~~ state agencies, including the Department of Consumer Affairs and the Employment Development Department, if that state agency has entered into an agreement with the ~~board~~. *board or county. This bill would require a county to collect only if both the board of supervisors of the county and the county tax collector or county treasurer-tax collector approves of entering into an agreement with a state agency to make those collections. The bill would require the agreement to include specified provisions, including that the board be reimbursed for the administrative costs of the collection, as specified, from the fund for which collection was authorized, upon appropriation by the Legislature. or county transmit the collected moneys to the Treasurer to be deposited in the State Treasury to the credit of the funds or accounts which the fees, fines, penalties, or other charges are otherwise required by law to be deposited, as specified.*

For the collection by the board or a county of regulatory fees on the behalf of a state agency pursuant to an agreement, this bill would continuously appropriate to the board or county an amount equal to the amount necessary for its costs of collection, not to exceed 10% of the amounts collected, from the funds or accounts which those regulatory fees are to be deposited. For the collection by the board or a county of fines, penalties, taxes, or other charges on the behalf of a state agency pursuant to an agreement, the bill would require the board or county to be reimbursed for its costs of collection from the funds or accounts which those fines, penalties, taxes, or other charges are to be deposited, not to exceed 10% of the amounts collected, upon appropriation by the Legislature.

This bill would also allow a state agency that enters into an agreement with the board or a county to impose a cash collection fee in an amount reasonably necessary to recover the collection costs to be incurred by the board or county in dealing with cash payments, not to exceed 10% of any amounts collected. The bill would require the cash collection fee to be determined by the state agency and the board or county, and would require any cash collection fees to be deposited into the funds or accounts which the fine, penalty, or other charge to be collected is deposited.

~~The bill would require the board to administer and collect the payments in accordance with the Fee Collection Procedures Law. By~~

~~expanding the application of the Fee Collection Procedures Law, the violation of which is a crime, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: ~~no~~yes. Fiscal committee: yes. State-mandated local program: ~~yes~~no.

The people of the State of California do enact as follows:

1 SECTION 1. Part 13.5 (commencing with Section 31001) is
2 added to Division 2 of the Revenue and Taxation Code, to read:

3
4 PART 13.5. MEDICAL-MARIJUANA CANNABIS STATE
5 PAYMENT COLLECTION LAW

6
7 31001. This part shall be known, and may be cited, as the
8 ~~Medical-Marijuana Cannabis~~ State Payment Collection Law.

9 31002. (a) ~~For purposes of this part, the references in the Fee~~
10 ~~Collection Procedures Law to “fee” shall include any fee, fine,~~
11 ~~penalty, or other charge required to be paid by a person that is a~~
12 ~~medical marijuana-related business, and references to “feepayer”~~
13 ~~shall include a person required to pay those fees.~~

14 (b) ~~“State agency,” as used in this part, includes, but is not~~
15 ~~limited to, the following:~~

- 16 (1) ~~The Department of Consumer Affairs.~~
- 17 (2) ~~The Department of Food and Agriculture.~~
- 18 (3) ~~The State Department of Public Health.~~
- 19 (4) ~~The Employment Development Department.~~
- 20 (5) ~~The State Water Resources Control Board.~~
- 21 (6) ~~The Franchise Tax Board.~~

22 31002. *All of the following definitions shall apply for purposes*
23 *of this part:*

- 24 (a) *“County” means a county and a city and county.*
- 25 (b) *“Regulatory fee” means a charge as defined in paragraph*
26 *(3) of subdivision (b) of Section 3 of Article XIII A of the California*
27 *Constitution.*

1 (c) “State agency” means a state entity, as defined in Section
2 11000 of the Government Code, that administers any fee, fine,
3 penalty, or other charge payable by a medical cannabis-related
4 business. As used in this part, “state agency” includes, but is not
5 limited to, the following:

- 6 (1) The Department of Consumer Affairs.
- 7 (2) The Department of Food and Agriculture.
- 8 (3) The State Department of Public Health.
- 9 (4) The Employment Development Department.
- 10 (5) The State Water Resources Control Board.
- 11 (6) The Franchise Tax Board.
- 12 (7) The regional water boards described in Chapter 4
13 (commencing with Section 13200) of Division 7 of the Water Code.

14 31003. (a) The board or a county may enter into an agreement
15 with a state agency to collect cash payments for any fee, fine,
16 penalty, or other charge payable to the state agency by a person
17 that is a medical-marijuana-related ~~cannabis-related~~ business in
18 accordance with provisions of this part.

19 (b) (1) The board shall collect fees, fines, penalties, and other
20 charges if the board enters into an agreement with a state agency
21 to make those collections. ~~The agreement shall include the~~
22 ~~following:~~ collections described in subdivision (a).

23 (2) A county shall collect fees, fines, penalties, and other charges
24 only if both the board of supervisors of the county and the county
25 tax collector or county treasurer-tax collector approves of entering
26 into an agreement with a state agency to make those collections
27 described in subdivision (a).

28 (c) (1) For the collection by the board or a county of regulatory
29 fees on the behalf of a state agency pursuant to an agreement
30 authorized by this part, the board or county shall be reimbursed
31 for its costs of collection from the funds or accounts which those
32 regulatory fees are to be deposited, not to exceed 10 percent of
33 the amounts collected. Notwithstanding Section 13340 of the
34 Government Code, there is hereby continuously appropriated to
35 the board or county an amount equal to the amount necessary for
36 its costs of collection of regulatory fees on the behalf of a state
37 agency pursuant to an agreement authorized by this part, not to
38 exceed 10 percent of the amounts collected, from the funds or
39 accounts which those regulatory fees are to be deposited.

1 (2) For the collection by the board or a county of fines,
2 penalties, taxes, or other charges on the behalf of a state agency
3 pursuant to an agreement authorized by this part, the board or
4 county shall be reimbursed for its costs of collection from the funds
5 or accounts which those fines, penalties, taxes, or other charges
6 are to be deposited, not to exceed 10 percent of the amounts
7 collected, upon appropriation by the Legislature.

8 (d) (1) A state agency that enters into an agreement with the
9 board or a county pursuant to the authorization of this part may
10 impose a cash collection fee in an amount reasonably necessary
11 to recover the collection costs to be incurred by the board or county
12 in dealing with cash payments, which may include, but are not
13 limited to, the costs of processing and securing the cash payments,
14 but shall not exceed 10 percent of any amounts collected.

15 (2) The amount of the cash collection fee shall be determined
16 by the state agency and the board or county.

17 (3) A cash collection fee shall not be imposed pursuant to this
18 subdivision if the fine, penalty, or other charge already includes
19 amounts reasonably necessary to recover the collection costs of
20 cash payments.

21 (4) Any cash collection fees imposed shall be deposited into the
22 funds or accounts which the fine, penalty, or other charge to be
23 collected is deposited.

24 (5) This subdivision does not authorize a cash collection fee to
25 be imposed for the collection of a tax, as defined in Section 3 of
26 Article XIII A of the California Constitution.

27 (e) An agreement between the board or a county and a state
28 agency shall include all of the following:

29 (1) A provision that the board or county be reimbursed for the
30 administrative costs of the collection from the ~~fund for which cash~~
31 ~~payments are collected, upon appropriation of the Legislature.~~
32 funds or accounts which the fees, fines, penalties, taxes, or other
33 charges are otherwise required by law to be deposited, and shall
34 specify whether that reimbursement is continuously appropriated
35 or made upon appropriation by the Legislature, as described in
36 subdivision (c).

37 (2) A provision that the board or county transmit the collected
38 moneys to the Treasurer to be deposited in the State Treasury to
39 the credit of the ~~fund for which collection was authorized.~~ funds

1 *or accounts which the fees, fines, penalties, taxes, or other charges*
2 *are otherwise required by law to be deposited.*

3 (3) A provision that describes the administrative costs the board
4 *or county* will incur in carrying out the ~~collection and~~
5 ~~administration, collection~~, which costs shall not exceed 10 percent
6 of the moneys collected.

7 (4) ~~A savings clause that provides the board the authority to~~
8 ~~collect and to make refunds after the sunset date if a sunset date~~
9 ~~exists.~~

10 (5) ~~A provision that sets forth the due date for payment of the~~
11 ~~fee, fine, penalty, or other charge and return by the feepayer.~~

12 (e) ~~The board shall administer and collect the payments~~
13 ~~authorized by an agreement made pursuant to this part pursuant~~
14 ~~to the Fee Collection Procedures Law (Part 30 (commencing with~~
15 ~~Section 55001)), except that Article 1.1 (commencing with Section~~
16 ~~55050) of Chapter 3 of that part shall not apply.~~

17 (4) *If the state agency decides to impose a cash collection fee*
18 *pursuant to subdivision (d), the amount of the cash collection fee*
19 *and how that amount was determined by the state agency and the*
20 *board or county.*

21 (5) *Any other provisions the board or county and state agency*
22 *determines is necessary to properly implement the collection of*
23 *the fees, fines, penalties, taxes, or other charges.*

24 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
25 ~~Section 6 of Article XIII B of the California Constitution because~~
26 ~~the only costs that may be incurred by a local agency or school~~
27 ~~district will be incurred because this act creates a new crime or~~
28 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
29 ~~for a crime or infraction, within the meaning of Section 17556 of~~
30 ~~the Government Code, or changes the definition of a crime within~~
31 ~~the meaning of Section 6 of Article XIII B of the California~~
32 ~~Constitution.~~